

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KEVIN BROMWELL,)	
)	
Petitioner,)	
)	
v.)	No. 4:06CV01359 ERW
)	
JAMES PURKETT,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon Kevin Bromwell's "Response to Order Directing Petitioner to Correct Technical Defects in the Petition or Face Dismissal of This Action" [Doc. #4].

Background

Petitioner challenged an unspecified state court conviction and sentence on grounds that the conviction and sentence were in violation of his constitutional rights. Petitioner asserted that his challenge was brought under 28 U.S.C. § 2241.

In its prior order, this Court found that petitioner is in custody pursuant to the judgment of a State court and, therefore, petitioner can only obtain habeas relief through § 2254 - not § 2241 - no matter how his pleading is styled. Crouch v. Norris, 251 F.3d 720, 723 (8th Cir. 2001). Plaintiff was given the opportunity to withdraw the petition or consent to having it reclassified as a § 2254 action.¹ See Castro v. United States, 124 S. Ct. 786 (2003). In the instant response,

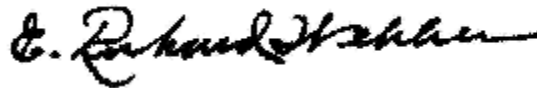
¹In its prior order, the Court noted that petitioner has brought at least one prior petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. See Bromwell v. Dormire, No. 4:97CV747(CEJ) (E.D. Mo.). If the instant petition challenges

petitioner states that he does not consent to having this action reclassified as a § 2254 action and that he intends to proceed under § 2241. As previously noted, § 2241 relief is not available to petitioner

In accordance with the foregoing,

IT IS HEREBY ORDERED that petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **DENIED**, with prejudice.

So Ordered this 24th Day of October, 2006.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE

the same judgment as the prior petition, then the instant petition constitutes a second or successive § 2254 action and petitioner must obtain authorization from the Eighth Circuit Court of Appeals before proceeding in this Court. See 28 U.S.C. § 2244(b)(3)(A).